

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 SP-02 USIA-06 AID-05 EB-07 NSC-05
EPG-02 TRSE-00 SS-15 STR-04 OMB-01 CEA-01 COME-00
CIAE-00 DODE-00 PM-04 H-01 INR-07 L-03 NSAE-00
PA-01 PRS-01 /076 W

-----260119Z 042314 /65

R 251545Z MAY 77

FM AMEMBASSY CAIRO

TO SECSTATE WASHDC 5427

INFO AMCONSUL ALEXANDRIA

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E.O. 11652: N/A

TAGS: EINV, EG

SUBJECT: AMENDMENTS TO EGYPTIAN FOREIGN INVESTMENT LAW (LAW 43
OF 1974)

REF (A) CAIRO 6231 (B) CAIRO 8139 (C) CAIRO 8314

1. SUMMARY: EMBASSY HAS OBTAINED FROM LOCAL ATTORNEY AN
UNOFFICIAL ENGLISH VERSION OF PEOPLE'S ASSEMBLY-APPROVED
AMENDMENTS TO LAW 43 AND FROM ECONOMIC COMMITTEE OF ASSEMBLY
"PASTED-UP" COPY OF THE AMENDMENTS I ARABIC. THE FOLLOWING
COMMENTS, BASED ON PERUSAL OF THESE DOCUMENTS (WHICH HAVE SOME
POINTS OF DIFFERENCE) COVER THE MORE IMPORTANT CHANGES
APPARENTLY MADE BY THE PEOPLE'S ASSEMBLY IN THE DRAFT PREVIOUSLY
POUCHED DEPARTMENT AND DISCUSSED REF A. END SUMMARY

2. A NEW ARTICLE 6 PROVIDES SPECIFICALLY FOR "EGYPTIAN CAPI-
TAL OWNED BY EGYPTIANS" TO ENJOY MOST OF THE BENEFITS OF LAW
43, INCLUDING THOSE RELATED TO TAX EXEMPTIONS AND TO THE ES-
TABLISHMENT OF FOREIGN CURRENCY BANK ACCOUNTS. PROVISIONS
FOR THE TRANSFER OF CAPITAL AND PROFITS ABROAD, HOWEVER, WILL
NOT, APPARENTLY APPLY TO EGYPTIANS.

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3. THE 5 YEAR EXEMPTION FROM THE GENERAL INCOME TAX (PROVIDED
FOR IN ARTICLE 16 OF THE DRAFT) FOR DISTRIBUTED PROFITS IS CON-
DITIONED ON THE INCOME NOT BEING SUBJECT TO TAX IN ANOTHER COUN-
TRY. THIS IS LESS SEVERE THAN THE PROVISION OF THE ORIGINAL LAW
43 WHICH MADE ALL TAX EXEMPTIONS GRANTED TO THE PROJECT BY ARTICLE
16 SUBJECT TO THE "NON-TAXABILITY ELSEWHERE" CONDITION, BUT MORE

RESTRICTIVE THAN THE DRAFT REPORTED REF A, WHICH HAD DROPPED THE CONDITION ALTHOGETHER. WAGES AND SALRIES PAID TO EMPLOYEES BY LAW 43 FIRMS APPEAR TO RETAIN THE EXEMPTION FROM THE GENERAL IN-COME TAX. POST-TAX HOLIDAY DISTRUBTED PROFITS ARE TO BE EXEMPT FROM THE GENERA INCOME TAX UP TO 5 PERCENT OF THE VALUE OF THE INVESTOR'S CAPITAL, RATHER THAN 10 PERCENT AS PROPOSED IN THE DRAFT.

4. IN ARTICLE 16, THE COUNCIL OF MINISTER REPLACES THE PRIME MINISTER AS THE APPROVING AUTHORITY FOR DUTY FREE ENTRY OF CAPITAL GOODS AND CONSTRUCTIONS MATERIALS. (IN ORIGINAL LAW 43, THE PRESIDENT HAD TO ISSUE A DECREE.)

5. IN SECTION ON REPATRIATION OF CAPITAL, FULL REPATRIATION IS ALLOWED (INSTALLMENTS NOT REQUIRED) IF BALANCE IN ARTICLE 14 FOREIGN CURRENCY ACCOUNT IS SUFFICIENT. IN ORDER TO TRANSFER PROCEEDS OF SALE OF THE INVESTMENT UPON LIQUIDATION, APPROVAL OF THE AUTHORITY IS REQUIRED.

6. FOR FREE ZONES, IN ADDITION TO ITEMS MENTIONED REFTEL A, THE 1 PERCENT ANNUAL DUTY ON GOODS ENTERING OR LEAVING THE ZONE IS MADE A MAXIMUM, WITH THE ACTUAL CHANGE TO BE DETERMINED BY THE AUTHORITY. MOREOVER, IN THE NEWLY-APPROVED PA VERSION TRADE IN TRANSIT GOODS IS EXEMPTED FROM THE DUTY.

7. AS NOTED, ENGLISH AND ARABIC VERSIONS WE HAVE DIFFER. FOR EXAMPLE, WITH RESPECT TO PROJECTS IN WHICH CAPITAL HAS ALREADY BEEN INVESTED AT THE OFFICIAL RATE, 75 PERCENT OF THE SHAREHOLDERS (RATHER THAN ALL) MAY DECIDE UPON REVALUATION, ACCORDING TO ARABIC LIMITED OFFICIAL USE

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VERSION. MOST SERIOUS DESCREPANCY, HOWEVER, IS OMMISSION FROM ARABIC VERSION OF RESTRICTIONS ON EMPLOYMENT BY LAW 43 FIRMS OF MEMBERS OF PEOPLES ASSEMBLY AND GOE OFFICIALS (SEE PARA. 4, REF. C). WE CHECKED ITH INVESTMENT AUTHORITY OFFICIAL WHO INSISTS OMMISSION MUST HAVE BEEN OVERSIGHT AND THAT RESTRICTIONS WILL APPEAR IN "FINAL" TEXT, WHICH WILL PROBABLY NOT BE AVAILABLE FOR SOME DAYS
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FOREIGN INVESTMENT, INVESTMENT LAW, AMENDMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 25-May-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977CAIRO08801
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770187-0785
Format: TEL
From: CAIRO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770521/aaaaarqj.tel
Line Count: 105
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: fb36d18a-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 CAIRO 6231, 77 CAIRO 8139, 77 CAIRO 8314
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 02-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2382401
Secure: OPEN
Status: NATIVE
Subject: AMENDMENTS TO EGYPTIAN FOREIGN INVESTMENT LAW (LAW 43 OF 1974)
TAGS: EINV, EG
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/fb36d18a-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009